

**MINUTES OF A MEETING OF SURREY  
HEATH BOROUGH COUNCIL held at  
Surrey Heath House, Knoll Road,  
Camberley on 28 November 2013**

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- + Cllr Beverley Harding (Mayor)
- + Cllr Bob Paton (Deputy Mayor)

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|-----------------------------|-------------------------|
| - Cllr David Allen          | + Cllr Paul Ilnicki     |
| - Cllr Rodney Bates         | + Cllr Lexie Kemp       |
| + Cllr Richard Brooks       | + Cllr Bruce Mansell    |
| + Cllr Keith Bush           | + Cllr David Mansfield  |
| + Cllr Glyn Carpenter       | + Cllr John May         |
| - Cllr Bill Chapman         | - Cllr Margaret Moher   |
| + Cllr Mrs Vivienne Chapman | + Cllr Charlotte Morley |
| + Cllr Ian Cullen           | + Cllr Adrian Page      |
| - Cllr Paul Deach           | + Cllr Ken Pedder       |
| + Cllr Tim Dodds            | - Cllr Chris Pitt       |
| - Cllr Colin Dougan         | + Cllr Joanne Potter    |
| + Cllr Craig Fennell        | + Cllr Wynne Price      |
| + Cllr Surinder Gandhum     | + Cllr Audrey Roxburgh  |
| - Cllr Liane Gibson         | + Cllr Ian Sams         |
| + Cllr Moira Gibson         | + Cllr Pat Tedder       |
| - Cllr Alastair Graham      | + Cllr Judi Trow        |
| + Cllr David Hamilton       | + Cllr Valerie White    |
| - Cllr Edward Hawkins       | - Cllr Alan Whittart    |
| - Cllr Josephine Hawkins    | + Cllr John Winterton   |

+ Present

- Apologies for absence presented

Officers in Attendance

Mrs Karen Whelan – Chief Executive  
Mrs Jenny Rickard – Executive Head - Regulatory  
Miss Karen Limmer – Head of Legal Services  
Mrs Jane Sherman – Democratic Services Manager  
Mr Jonathan Partington – Development Manager  
Mr Neil Praine – Planning Officer  
Mr Andy Stokes – Highway Officer - Surrey County Council  
Ms Melanie Cawkell – Highway Officer – Surrey County Council

**Part I**  
**(public)**

**43/C Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors David Allen, Rodney Bates, Paul Deach, Bill Chapman, Liane Gibson, Alastair Graham, Edward Hawkins, Josephine Hawkins, Margaret Moher, Chris Pitt and Alan Whittart.

**44/C Declarations of Interest**

In accordance with the Council's Code of Conduct, Councillor Paul Ilnicki declared a disclosable pecuniary interest as his wife was employed by the House of Fraser, located in the Town Centre, and left the Chamber during the consideration of the application.

Members were advised by the Monitoring Officer of the position with regards to the lobbying of Members by the applicant and third parties.

**45/C Suspension of Council Procedure Rules**

It was moved by the Mayor and seconded by the Deputy Mayor and

**Resolved that, in order to allow for freer debate, the Council Procedure Rules 14.5 (length of speech), 14.6 (councillors speaking more than once), and 21.2 (the requirement to stand) be suspended for the remainder of the meeting.**

**46/C Planning Application 12/0619 – Sainsburys PLC, Blackwater Valley Road, Camberley, Surrey**

The application was for a retail development at Blackwater Valley Road, Camberley.

The existing Sainsbury's store, which was an out-of-centre Class A1 retail use, had been in existence for over 20 years. The proposal was for full planning permission to demolish this existing store and erect a 17,500 square metre replacement store with an increase of 6,626 sq m over existing levels (61% increase) together with 793 associated parking spaces (an increase of 220 spaces over existing levels), plus 50 bicycle spaces and 8 motorcycle spaces. The new store would offer a net sales area of 9,341 square metres, an increase of 3,125 sq m over existing levels.

The Executive Head – Regulatory introduced the report relating to Planning Application 12/0619 for Sainsbury PLC, Blackwater Valley Road, Camberley.

Members were informed that officers had sought independent advice to assist in formulating their recommendation on this application.

The Development Manager advised Members that when the original store had received planning permission no conditions had been imposed either restricting its use as a food superstore or for convenience products only. Members were advised to consider the impacts of the proposal against the principles of sustainable development and the existing context, that the store had supported local economy for over 20 years with an established customer base. The Development Manager summarised the principal issues identified in the officer's report.

The applicant had submitted a retail assessment which considered the impact in a study catchment area over 20 zones. Camberley Town Centre was within central zone 4. On this basis, there were three key tests which were considered in assessing the retail impacts.

The tests were, firstly, whether there were no sequentially preferable, suitable or alternative sites available in the town centre or edge of centre. The officer's report listed five main reasons why the applicant had discounted other alternatives. It also detailed advice from the Council's retail consultant outlined relevant case law.

The second test was the impact on existing, committed and planned investment in the town centre and elsewhere. This included the redevelopment plans for the town centre in particular the London Road.

The third test was the impact on the vitality and viability of the town centre and other centres.

The proposal had been supported by a transport assessment. The County Highways Authority had fully considered the proposal, which included assessment of the impact on the Meadows gyratory and had raised no objection concluding that there would be no adverse impact on highway safety or capacity.

The proposal's design would respect the character and quality of the area and there would be no adverse impacts on residential amenity, protected species, flooding and drainage and contamination.

The application was therefore recommended for approval subject to conditions and a Section106 legal agreement to secure financial contributions.

Members received an update in relation to the following matters:

Paragraph 5.1 - the existing store total gross internal areas should read 10,356 sq metres. For clarification the gross external area of the existing store was 10,874 sq metres and the proposed gross external area would be 18,375 sq m.

Paragraph 5.2 - The applicant had confirmed that the number of concessions proposed would not exceed 9 and were willing to accept a planning condition to restrict the number of concession units to a maximum of 9 units. This could be addressed by varying condition 3.

Paragraph 7.3 - A further objection on behalf of a local retailer (House of Fraser) had been received which highlighted concerns regarding the increase in clothing sales and the resultant impact on the Camberley Town Centre and suggests limiting the floor area, by restrictive planning conditions. It was reported that the applicant had offered to accept a planning condition to restrict the threshold of floorspace devoted to clothing and footwear to 50% of the proposed comparison floorspace (2,336 sqm) and this could be dealt with by an additional condition.

Paragraph 7.4 - A further letter of objection had been received from Capital and Regional dated 25 November 2013. Notwithstanding the date of the letter it appeared that it relied on legal advice from Rupert Warren QC dated 12 November 2013. Mr Warren's advice predated the release of the Officer's report and as such did not directly respond to or critique the approach and reasoning of the Officer's recommendation. However, the main points of the submitted letter of objection were summarised as follows:

- 1) The town centre is more fragile than the applicant or the Council's Retail Consultant indicates for the following reasons:
  - 1.1) Total non-food spend within The Mall was £110m per annum (source CACI) yet the proposal would deliver £27m non-food retail (or 25% of the Mall's existing non-food spend).
  - 1.2) The applicant had overestimated the existing turnover of the town centre at c£220m.
  - 1.3) Vacancy levels in the Mall were on the surface strong at 3.8% but if you included temporary and units in administration or distress the figures were higher and were at the highest level within their UK portfolio of shopping centres.
  - 1.4) Vacancy levels in the wider town centre were 12.4% (33 out of 267)

- 1.5) In terms of sales densities the Mall achieved £338 per sq ft (source CACI) well below the average UK shopping centre sales density of c£450 per sq ft (source CBRE)
- 2) A potential anchor store on the London Road Block site would view this large out of centre proposal with concern. This would send the wrong signal to the market that the Council will not be able to protect its own town centre. It may stop the London Road Block site coming forward in the short term.
- 3) A more thorough and exacting justification with evidence should have been demanded from the applicant to justify the need for the proposed floorspace (comparison).
- 4) Disaggregation and the sequential approach, had not been adequately considered. The Dundee case relied upon was Scottish law and therefore had little authority in England.
- 5) The report did not address the impact on local and district centres such as the Blackwater shopping parade.

The Council's Retail Consultant had considered the letter of objection received from Capital and Regional and his response was circulated to Members. In addition Officer's comments in response to the points above were as follows:

- 1) This letter exaggerated the impact on the Mall as it failed to recognise that the trade draw of Sainsburys would be different from the trade draw of the Mall. It was not credible to suggest that this proposal would reduce the Mall's turnover by 25% and this was covered in more detail in the Council's retail consultant's comments as circulated. Turning to town centre vacancies the applicants submitted as part of the application a vacancy rate assessment dated September 2012. Their evidence suggested the vacancy rate in Camberley was reducing despite the current economic downturn. In essence this suggested that the town centre was maintaining vitality and viability. At the time of their survey there were 41 vacant units in Camberley which accounted for 7,830m<sup>2</sup> of the total floorspace in the centre with the majority of these units are small (under 464m<sup>2</sup>). The overall vacancy rate for Camberley town centre was slightly below the 2012 national average. As noted above in point 1.4 this vacancy rate appeared to have reduced since 2012.
- 2), 3) and 4) The objector had put forward no evidence to suggest that this proposal would prevent the London Road Block site being developed. Paragraphs 8.3.13 – 8.3.14 of the officer's report explained why this proposal would not undermine delivery of the London Road Block site. The objector suggested that the applicant's needs could be obtained through an amalgam of empty and under occupied units. However, disaggregation of the applicant's own needs was not realistic.
- 5) The impact on lower order centres within the Borough had been covered at paragraph 8.3.28 of the report. Although it was noted that the Blackwater shopping parade fell within the administrative boundary of Hart District Council, who had raised no objection to the proposal. For the avoidance of doubt the same reasoning applied to the Blackwater shopping parade as a lower order centre/parade as indicated at paragraph 8.3.28 of the report.

Furthermore Hart District Council's no objection consultation response had gone further to state that their own Retail Study suggested the demand for convenience floorspace provision in Hart exceeded supply and on this basis represented a need for new convenience floorspace. Hart District Council had concluded that this demand for convenience floorspace could be provided outside of Hart's district.

Paragraph 8.9.1 - The 3<sup>rd</sup> line referred to paragraph 7.7 above. This should read paragraph 6.7 above

Paragraph 8.11.5 - The 3<sup>rd</sup> line of the paragraph referred to paragraph 8.3.18 above. This should read paragraph 8.3.19 above

The Council heard from Ms Zoe Griffiths, Mr Mark Bourgeois, and Mr David Lazenby representing Sainsbury PLC. These speakers also answered points of clarification in response to questions by Members.

Members indicated whilst not opposed to a new store, it was felt that the size of the development was a major issue. In particular concern was expressed in relation to the doubling the size of the floor space for comparison goods, as it was considered that it was the sale of these goods which would directly compete with Camberley Town Centre. It was also felt that the National Planning Policy Framework tests had not been substantiated by the applicant and that, in any event, the NPPF was so broad that, at the moment, there were few precedents.

Members also considered that the applicant not been flexible in their approach to the format and scope of its provision and had not explored the potential to invest in the existing town centre store and provide comparison outlets near that store. As result had the sequential test of flexibility of aggregation and the sub division of sites had not been met.

Whilst the applicant agreed that there was likely to a 15% diversion of the sale of comparison goods from the town centre but they had not demonstrated that the size of the store proposed was required to meet customers' needs. In particular it was considered that a bigger store was unlikely to be required to meet demand particularly with the rise in internet sales. The applicant's reason for the increase in floor space was in order to compete with Tescos was not considered sufficient to satisfy the tests within the NPPF.

Members also considered that the views of retail experts differed as to the impact of the proposed development on future investment in the town centre differed. In addition planning inspectors had reached different conclusions on appeals on similar developments and appeal decisions had established that Members were entitled to look at impact on the town centre, whether the flexibility test had been satisfied and cumulative effect of out of town centre stores and the impact on town centre investment.

It was moved by Cllr Moira Gibson and seconded by Cllr Richard Brooks that the application be refused for the following reasons:

- 1) The application fails to adequately demonstrate the need for the scheme specifically the quantum of floorspace proposed, as a result it is considered that it fails to demonstrate that suitable alternative sites within the Town Centre are not available. Notwithstanding the offer to limit the number of concessions the scheme has failed to identify sufficient flexibility in approach in particular in respect of the

inclusion of concessions, the overall amount of floorspace and the alternatives for delivery of the additional comparison goods floorspace within the town centre.

- 2) As a consequence, the application fails to adequately address concerns over the impact on the vitality and viability of the town centre and in particular the consequences for committed and planned investment in town centre.
- 3) In the light of the above the application fails to satisfy the sequential test and is considered likely to have a significant impact on existing committed and planned investment in the town centre as identified in paragraphs 24-27 of the NPPF as supported by the emerging NPPG and thus also fails to satisfy the requirements of Policies CP1, CP9 and CP10 of the adopted Core Strategy.
- 4) The scale and potential size of the development could, due to the cumulative effect of all out of town developments, be harmful to the hierarchy of centres contrary to Policy CP9 of the adopted Core Strategy.

The motion was put to the meeting and carried; the voting being 27 in favour and 1 against.

For the motion:

Councillors, Richard Brooks, Keith Bush, Glyn Carpenter, Mrs Vivienne Chapman, Ian Cullen, Colin Dougan, Craig Fennell, Surinder Gandhum, Moira Gibson, David Hamilton, Beverley Harding, Lexie Kemp, Bruce Mansell, David Mansfield, John May, Charlotte Morley, Adrian Page, Bob Paton, Ken Pedder, Joanne Potter, Wynne Price, Audrey Roxburgh, Ian Sams, Pat Tedder, Judi Trow, Valerie White and John Winterton.

Against the motion:

Councillor Tim Dodds.

**Resolved that the application be refused for the reasons as set to above.**

MAYOR

Note: The meeting concluded at 8.30pm.